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HON. MR. JUSTICE MIDDLETON.

JUNE 15TH, 1912.

RE ELIZA ANNE GWYNNE ESTATE.

3 O. W. N. 1428.

*Will—Construction—Charity Bequest—Fee of "Legacy Duty"—Succession Duty—9 Edw. VII. c. 12, s. 6 (2).*

Application by executors for determination of certain questions arising under a will whereby the testatrix bequeathed "unto the society called the British Union for the abolition of Vivisection \$75,000 free of legacy duty."

MIDDLETON, J., *held*, in answer to the first question propounded, that 9 Edw. VII. c. 12, s. 6 (2), absolving from succession duties "property devised or bequeathed for religious, charitable or educational purposes to be carried out in Ontario," only applied to objects which must of necessity be carried out in Ontario, not to those which might be carried out in Ontario without occasioning a breach of trust.

That in answer to the second question propounded, that as Ontario Statutes impose no legacy duties proper, and the only duties payable on Ontario estates are succession duties, the expression "legacy duty," in the will, must be interpreted to mean "succession duties."

Costs to all parties out of estate to executors, as between solicitor and client.

Motion under Consolidated Rule 938, by the executors of the late Eliza Anne Gwynne, for the determination of certain questions arising under her will.

By the will in question the testatrix bequeathed "unto the society called the British Union for the Abolition of Vivisection the sum of \$75,000 free of legacy duty."

The British Union for the Abolition of Vivisection, is an English organization having for its object "by means of active and systematic propaganda throughout the United Kingdom to secure the abolition of vivisection," and "to influence in favour of the object of the Union candidates at elections, Parliamentary or municipal, and for country or parish councils, and to assist if advisable in the financial support of a direct Parliamentary representative."